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CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY VMA DEPUTY

8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

11 FRACTIONAL VILLAS, INC. )  
12 A California corporation, )  
13 Plaintiff, )

14 vs. )

CASE NO. 08-CV-1317 DMS LSP

15 JASON KATZ, an individual: )  
16 LENDING EXECUTIVES INC. a )  
17 California corporation; YOLANDA )  
18 ORTIZ-PARRA, an individual, )  
19 RAYMOND VINOLE, an individual )  
20 DANIEL CHARLES PRIVETT, an )  
21 Individual, and DOES 1-25, )  
22 Defendants )

ANSWER OF DANIEL CHARLES  
PRIVETT

23 DANIEL CHARLES PRIVETT admits that he is a co-owner of Legend; admits that he  
24 lives in Escondido, California; admits the jurisdictional allegations; based on insufficient  
25 information or belief, denies the remaining allegations in the complaint.  
26  
27  
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AFFIRMATIVE DEFENSES

1. Plaintiff complaint has failed to state facts sufficient to state a cause of action against this Defendant.
2. Plaintiff's complaint is barred by the applicable statute of limitations.
3. Plaintiff's claimed works were not original and therefore the copyright is invalid.
4. Plaintiff's claimed violation of copyright lacked copyrightable subject matter.
5. Plaintiff is not the owner of the copyright to the subject material.
6. Plaintiff's claimed subject matter of the copyright is in the public domain.
7. Plaintiff's claimed copyright infringement was in fact independently created.
8. Defendant's use, if any, of Plaintiff's subject material was de minimis.
9. Defendant's use of the subject matter was fair use.
10. The subject material claimed by Plaintiff to be infringed by Defendant was not protectable, nor copyrightable expression.
11. Plaintiff's State of California cause of action is preempted by federal law.
12. Plaintiff's claim of copyright over the subject material is not fixed since Plaintiff did not author the subject material.
13. Plaintiff failed to properly or effectively disclose Plaintiff's copyright protection.
14. Plaintiff's claim to copyright of the subject material is a misuse of the copyright laws.
15. Plaintiff's claim to copyright over material which is in the public domain, or authored by others, demonstrates unclean hands and equitably bars the Plaintiff from recovery.
16. Defendant lacked willful intent.

Dated: August 28, 2008

  
DANIEL CHARLES PRIVETT

CERTIFICATE OF SERVICE

I am an adult and not a party to the foregoing action.

I maintain offices at 7825 Fay Avenue, Suite 200, La Jolla, CA 92037.

I certify that I mailed by U.S. Mail a copy of Answer Of Daniel Charles Privett to Robert Berkowitz, Coast Law Group, LLP, attorney in charge for the plaintiff, whose address is 169 Saxony Road, Suite 204, Encinitas, CA 92024, on August 28, 2008.

  
Leon E. Campbell